

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ANGELO PANTANO,

Petitioner,

vs.

WILLIAM DONAT, *et al.*,

Respondents.

3:08-cv-00685-ECR-VPC

ORDER

This habeas matter under 28 U.S.C. § 2254 comes before the Court following initial review under Rule 4 of the Rules Governing Section 2254 Cases (the “Habeas Rules”) of the amended petition (#20) filed by the Federal Public Defender. Following upon said review, a response will be directed.

IT THEREFORE IS ORDERED that, taking into account the number and complexity of the grounds presented, including subparts, respondents shall have seventy-five (75) days from entry of this order within which to answer, or otherwise respond to, the amended petition, including by motion to dismiss. Any response filed shall comply with the remaining provisions below, which are tailored to this particular case based upon the Court’s screening of the amended petition and which are entered pursuant to Rule 4 of the Rules Governing Section 2254 Cases.¹

¹The rule provides in pertinent part: “If the petition is not dismissed [on initial review], the judge must order the respondent to file an answer, motion, or other response within a fixed time, or to take other action [as] the judge may order.”

1 IT FURTHER IS ORDERED that any procedural defenses raised by respondents in this
2 case – including any defenses as to timeliness and relation back of claims, lack of exhaustion,
3 procedural default, and/or lack of specificity – shall be raised together in a single motion to
4 dismiss. Procedural defenses omitted from the motion to dismiss will be subject to potential
5 waiver.² The respondents shall not file a response in this case that consolidates their
6 procedural defenses, if any, with their response on the merits, except pursuant to 28 U.S.C.
7 § 2254(b)(2) as to unexhausted claims clearly lacking merit.

8 IT FURTHER IS ORDERED that, in any answer filed on the merits, respondents shall
9 specifically cite to and address the applicable state court written decision and state court
10 record materials, if any, regarding each claim within the response as to that claim

11 IT FURTHER IS ORDERED that any additional exhibits filed by respondents shall be
12 filed with a separate index of exhibits identifying the exhibits by number or letter. The
13 CM/ECF attachments that are filed further shall be identified by the number or numbers (or
14 letter or letters) of the exhibits in the attachment. Cf. ## 16-18. The purpose of this provision
15 is so that the Court, the parties, and any reviewing court thereafter will be able to quickly
16 determine from the face of the electronic docket sheet which exhibits are filed in which
17 attachments.

18 IT FURTHER IS ORDERED that, again given the number and complexity of the claims,
19 petitioner shall have forty-five (45) days from service of the answer, motion to dismiss, or
20 other response to file a reply or opposition.

21 DATED: April 22, 2010

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23 
24 EDWARD C. REED
25 United States District Judge
26

27 ² See, e.g. *Morrison v. Mahoney*, 399 F.3d 1042, 1046 (9th Cir. 2005) (“Unless a court has ordered
28 otherwise, separate motions to dismiss may be filed asserting different affirmative defenses.”)(emphasis added).